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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA) CR 08-2386 JM (NLS)
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12 Plaintiff,)
13 v.) ORDER GRANTING EX PARTE
14 RYAN WEDDING) MOTION FOR REQUEST FOR
15) INTERNATIONAL JUDICIAL
16) ASSISTANCE TO THE REPUBLIC OF
17) KAZAKHSTAN
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On April 10, 2009, Defendant Ryan Wedding filed an Ex-Parte Motion for Issuance of a Request for International Judicial Assistance to the Republic of Kazakhstan. [Docket No. 80.] The Motion was referred to the undersigned Magistrate Judge for determination. [Docket No. 84.] The United States has filed no Opposition to the Request. Good cause appearing, the Motion is GRANTED.

The Federal Bureau of Investigations conducted an investigation that included recordings of phone calls and meetings between an informant named Yuri Trofimov ("Trofimov") and Defendant Wedding and his co-defendants. The investigation resulted in Defendant being charged with conspiracy to possess cocaine with intent to distribute, 21 U.S.C. §§ 841 and 846, and criminal forfeiture, 21 U.S.C. § 853. Defendant believes that Trofimov was involved in fraud-related crimes when living in Kazakhstan and believes that information about any fraud related crimes would provide powerful impeachment material at trial.

Federal courts have the power to transmit letters rogatory to foreign tribunals.

(a) The Department of State has power, directly, or through suitable channels-

1 (1) to receive a letter rogatory issued, or request made, by a foreign or international
2 tribunal, to transmit it to the tribunal, officer, or agency in the United States to whom it is
addressed, and to receive and return it after execution; and

3 (2) to receive a letter rogatory issued, or request made, by a tribunal in the United States,
4 to transmit it to the foreign or international tribunal officer, or agency to whom it is
addressed, and to receive and return it after execution.

5 28 U.S.C. § 1781. Moreover, “all courts of the United States, [have] inherent power to issue Letters
6 Rogatory. The manner of taking proof is left to our discretion.” *U.S. v. Reagan*, 453 F.2d 165, 172 (6th
7 Cir. 1971)(“courts of justice of different countries are bound mutually to aid and assist each other, for
8 the furtherance of justice.”)(citation omitted.); see also *United States v. Staples*, 256 F.2d 290, 292 (9th
9 Cir. 1958). The power of the federal courts extends to requests from criminal defendants for
10 international assistance to gather evidence in support of their defense. *United States v. Sensi*, 879 F.2d
11 888, 898 (D.C. Cir. 1989) (finding criminal defendant should have sought international assistance);
12 *United States v. Mejia*, 448 F.3d 436, 445 (D.C. Cir. 2006)(criminal defendant could have sought letters
13 rogatory pursuant to 28 U.S.C. § 1781(b)(2)); *United States v. Yousef*, 327 F.3d 56, 113 (2nd Cir.
14 2003)(same.)

15 Although the Federal Rules of Criminal Procedure do not provide any procedure for the issuance
16 of requests for judicial assistance, Rule 57 provides: “(b) Procedure When There Is No Controlling Law.
17 A judge may regulate practice in any manner consistent with federal law, these rules, and the local rules
18 of the district.” Fed. R. Crim. P. 57(b). Accordingly, the request for issuance of a request for
19 international judicial assistance is appropriate.

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1 For the foregoing reasons, IT IS HEREBY ORDERED that:

- 2 1. Defendant's Motion is GRANTED;
- 3 2. Defendant shall, no later than June 15, 2009, submit an appropriate form of the
4 request for judicial assistance;
- 5 3. Defendant shall contact the State Department in order to ascertain all of the
6 requirements for the State Department to submit the Request to the appropriate
7 authorities in Kazakhstan¹.

8 IT IS SO ORDERED.

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10 DATED: May 13, 2009

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12 Hon. Nita L. Stormes
13 U.S. Magistrate Judge
14 United States District Court
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27 ¹Defendant is directed to http://travel.state.gov/law/info/judicial/judicial_683.html the State
28 Department's informational page on the preparation of letters rogatory, which contains a detailed
description of the entire process.